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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,595	11/01/2001	Motasim Sirhan	020460-001600US	4760
20350	7590	08/11/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			PHAN, HIEU	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/002,595	Applicant(s) SIRHAN ET AL.	
	Examiner Hieu Phan	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-273 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-3, 74-110, 112, 116-119, 121-133, 150-158, 170-237, 241, 244-253 and 272-273 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 4-73,111,113-115,120,134-149,159-169,238-240,242,243 and 254-271.

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Response to Election/Restriction

1. Applicant's election of Group I and Specie 4 directed to Fig. 2D, claims 1-3, 74-110, 112, 116-119, 121-133, 150-158, 170-237, 241, 244-253 and 272-273, in Paper No. 17 is acknowledged. Further, Examiner acknowledged that claims 1, 74, 150, 241 and 244 are generic claims. Non-elected claims 4-73, 111, 113-115, 120, 134-149, 159-169, 238-240, 242, 243 and 254-271 have been withdrawn from consideration. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Upon further examination of the application, further election of specie is required.

DETAILED ACTION

Election/Restrictions

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Sub-specie 15: represented by claim 103

Sub-specie 16: represented by claim 104

Sub-specie 17: represented by claim 105

Sub-specie 18: represented by claim 106

Sub-specie 19: represented by claim 107

Sub-specie 20: represented by claim 108

Sub-specie 21: represented by claim 109

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

3. This application contains claims directed to the following patentably distinct species of the claimed invention. Upon election of one of the above Sub-species please elect one of the following sub-species:

Sub-specie 22: represented by claim 121

Sub-specie 23: represented by claim 125

Sub-specie 24: represented by claim 128

Sub-specie 25: represented by claim 131

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

4. This application contains claims directed to the following patentably distinct species of the claimed invention. Upon election of one of the above Sub-species please elect one of the following sub-species:

Sub-specie 26: represented by claim 171

Sub-specie 27: represented by claim 172

Sub-specie 28: represented by claim 173

Sub-specie 29: represented by claim 174

Sub-specie 30: represented by claim 175

Sub-specie 31: represented by claim 192

Sub-specie 32: represented by claim 193

Sub-specie 33: represented by claim 194

Sub-specie 34: represented by claim 195

Sub-specie 35: represented by claim 196

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Sub-specie 36: represented by claim 197

Sub-specie 37: represented by claim 198

Sub-specie 38: represented by claim 199

Sub-specie 39: represented by claim 200

Sub-specie 40: represented by claim 201

Sub-specie 41: represented by claim 202

Sub-specie 42: represented by claim 203

Sub-specie 43: represented by claim 204

Sub-specie 44: represented by claim 205

Sub-specie 45: represented by claim 206

Sub-specie 46: represented by claim 207

Sub-specie 47: represented by claim 208

Sub-specie 48: represented by claim 209

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

5. This application contains claims directed to the following patentably distinct species of the claimed invention. Upon election of one of the above Sub-species please elect one of the following sub-species:

Sub-specie 49: represented by claim 179

Sub-specie 50: represented by claim 180

Sub-specie 51: represented by claim 181

Sub-specie 52: represented by claim 182

Sub-specie 53: represented by claim 183

Sub-specie 54: represented by claim 184

Sub-specie 55: represented by claim 185

Sub-specie 56: represented by claim 186

Sub-specie 57: represented by claim 187

Sub-specie 58: represented by claim 188

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

6. This application contains claims directed to the following patentably distinct species of the claimed invention. Upon election of one of the above Sub-species please elect one of the following sub-species:

Sub-specie 59: represented by claim 189

Sub-specie 60: represented by claim 190

Sub-specie 61: represented by claim 191

Sub-specie 62: represented by claim 210

Sub-specie 63: represented by claim 211

Sub-specie 64: represented by claim 212

Sub-specie 65: represented by claim 213

Sub-specie 66: represented by claim 214

Sub-specie 67: represented by claim 215

Sub-specie 68: represented by claim 216

Sub-specie 69: represented by claim 217

Sub-specie 70: represented by claim 218

Sub-specie 71: represented by claim 219

Sub-specie 72: represented by claim 220

Sub-specie 73: represented by claim 221

Sub-specie 74: represented by claim 222

Sub-specie 75: represented by claim 223

Sub-specie 76: represented by claim 224

Sub-specie 77: represented by claim 225

Sub-specie 78: represented by claims 226 and 229

Sub-specie 79: represented by claim 227

Sub-specie 80: represented by claim 228 and 230

Applicant is required under 35 U.S.C. 121. to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

7. This application contains claims directed to the following patentably distinct species of the claimed invention. Upon election of one of the above Sub-species please elect one of the following sub-species:

Sub-specie 81: represented by claim 232

Sub-specie 82: represented by claim 233

Sub-specie 83: represented by claim 234

Sub-specie 84: represented by claim 235

Sub-specie 85: represented by claim 236

Sub-specie 86: represented by claim 237

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 74, 150, 241 and 244 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

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all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. A telephone call was made to Nena Bains on 08/06/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Phan whose telephone number is 703-308-8969. The examiner can normally be reached on Monday-Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hieu Phan
Examiner
Art Unit 3738

